

**AN ORDINANCE OF THE CITY OF EUREKA AMENDING EUREKA  
MUNICIPAL CODE TITLE XIII, CHAPTER 131 "PROPERTY OFFENSES"  
BY ADDING SECTION 131.30 "TRESPASS" RELATING TO THE PROHIBITION  
OF TRESPASS UPON PRIVATE PROPERTY**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:**

Section 1. FINDINGS:

WHEREAS, it is an inherent and fundamental right associated with ownership of property or a business, in the absence of unlawful discrimination, to exclude those who are not welcome; and

WHEREAS, the general laws of the State of California are inadequate to address trespass on private property; and

WHEREAS, the Legislature of the State of California has failed to make it unlawful for someone to remain on private property or at a private business after being advised to leave; and

WHEREAS, Penal Code § 647(c) confirms the power of a municipality to regulate the conduct of individuals in places which are open to the public; and

WHEREAS, the adoption of this Ordinance furthers the health, safety, and welfare of the public; and

WHEREAS, it is the intention of the City Council to empower owners of private property and private businesses with the authority to lawfully exclude individuals from private property, and

WHEREAS, the prohibitions established by this ordinance will expire at midnight on the 365<sup>th</sup> day following their original imposition:

Section 2.

The following section is hereby *added* to Title XIII, Chapter 131:

Section 131.30 TRESPASS ON PRIVATE PROPERTY PROHIBITED.

- A. No person may remain upon any private property or business premises after being notified by the owner or lessee or other person in charge thereof to leave the premises.
- B. No person, without the express or implied permission of the owner, the owner's agent, or the lessee, the lessee's agent, or other person in charge of private property or business premises, may re-enter any private property or business premises after having been notified by the owner, the owner's agent, or the lessee, the lessee's agent, or other person in charge thereof to keep off or keep away therefrom.
- C. This Section does not apply in any of the following instances:
  - 1. Where its application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provision of law relating to prohibited discrimination against any person on account of that person's membership in a protected class, as defined in state or federal law;
  - 2. Where its application results in or is coupled with an act prohibited by Penal Code § 365 or any other provision of law relating to duties of innkeepers and common carriers;
  - 3. Where its application would result in an interference with or inhibition of peaceful labor picketing or other lawful activities;
  - 4. Where more than 365 days have elapsed since the original notification to leave the premises or to keep off or keep away therefrom;
  - 5. Where its application would result in an interference with or inhibition of any other exercise of a constitutionally protected right of freedom of speech such as, but not limited to, peaceful expressions of political or religious opinions, not involving obstruction of a street, sidewalk, or other public area or disturbing the peace in violation of Penal Code § 415; or
  - 6. Where the person who is upon another's private property or business premises is present under a claim of legal right in any of the following situations:
    - A. Marital and post-marital disputes;
    - B. Child custody or visitation disputes;
    - C. Disputes regarding title to or rights in real property;

- D. Landlord-tenant disputes;
- E. Disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute;
- F. Employer-employee disputes;
- G. Business-type disputes such as those between partners;
- H. Debtor-creditor disputes; and
- I. Instances wherein the person claims rights to be present pursuant to order, decree or process of a court.

### Section 3.

Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any person or circumstance. The City Council of the City of Eureka hereby declares that it would have adopted each section, subsection subdivision paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections subdivisions paragraphs, sentences, clauses or phrases might be declared invalid or unenforceable.

### Section 4.

The City of Eureka finds that this Ordinance is not a “project” according to the definition set forth in the California Environmental Quality Act (“CEQA”), and, pursuant to CEQA Guidelines sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment), the adoption of this ordinance is therefore not subject to the provisions requiring environmental review.

### Section 5.

This Ordinance takes effect thirty (30) days after the date of its adoption, and the City Clerk must certify to the adoption hereof and cause its publication according to law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2018 by the following vote:

AYES: COUNCILMEMBERS  
NOES: COUNCILMEMBERS  
ABSENT: COUNCILMEMBERS

\_\_\_\_\_  
Kim Bergel, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the \_\_\_\_ day of \_\_\_\_\_, 2018,  
and hereby approved.

\_\_\_\_\_  
Frank J. Jäger, Mayor

*Approved as to Administration:*

*Approved as to form:*

\_\_\_\_\_  
Greg L. Sparks, City Manager

\_\_\_\_\_  
Robert N. Black, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on  
the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Pamela J. Powell, City Clerk